

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRIAN T. ROGERS,

Petitioner,

No. CIV S-01-0975 FCD GGH P

vs.

CLAUDE FINN,

Respondent.

ORDER

On April 29, 2004, the court dismissed the petition on grounds that the claims were procedurally defaulted. On December 16, 2005, the Ninth Circuit Court of Appeals reversed and remanded this matter. On January 10, 2006, the court ordered the parties to file further briefing addressing the issue of California's timeliness rule. On February 2, 2006, respondent filed a request to have this action resolved on the merits.

It has come to the court's attention that petitioner may not have apprised the court of his most recent address. The last communication with this court by petitioner was on March 9, 2004, when he filed a notice of change of address indicating that he was no longer incarcerated. The court has recently obtained information from the California Department of Corrections and Rehabilitation that petitioner was released from custody on or around January 24, 2006. Apparently, petitioner was re-incarcerated during the time this action was on appeal.

1 Petitioner has not since filed a notice of change of address indicating his new address following  
2 his latest release from prison.

3 Petitioner's failure to file a notice of change of address suggests that he is no  
4 longer interested in pursuing this action. Accordingly, petitioner is directed to file a notice of  
5 change of address within ten days of the date of this order. If petitioner does not respond to this  
6 order, the court will recommend dismissal of this action.

7 Accordingly, IT IS HEREBY ORDERED that within ten days of the date of this  
8 order, petitioner shall file a notice of change of address.

9 DATED: 2/14/06

10 /s/ Gregory G. Hollows

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12 GREGORY G. HOLLOWS  
13 UNITED STATES MAGISTRATE JUDGE

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